

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

ROBERT DAVID DUNN,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-05-726-F
)	
RANDALL WORKMAN, Warden,)	
STATE OF OKLAHOMA,)	
)	
Respondents.)	

REPORT AND RECOMMENDATION

Petitioner, a state prisoner appearing *pro se*, has filed a motion for leave to proceed *in forma pauperis* and supporting affidavit. Additionally, Petitioner submitted the requisite \$5.00 filing fee. Pursuant to an order entered by United States District Judge Stephen P. Friot, this matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. § 636(b)(1)(B). In light of Petitioner's submission of the filing fee of \$5, the undersigned hereby recommends that the motion for leave to proceed *in forma pauperis* be denied as moot. See Lister v. Department of the Treasury, 408 F.3d 1309, 1312 (10th Cir. 2005) (magistrate judge should have issued a report and recommendation, recommending denial of the motion to proceed *in forma pauperis*.).

Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court by July 19, 2005, in accordance with 28 U.S.C. § 636 and Local Civil Rule 72.1. Petitioner is further advised that failure to timely object to this Report and Recommendation waives the right to appellate review of both factual and legal issues contained herein. Moore v. United States, 950 F. 2d 656 (10th Cir. 1991).

The Clerk is hereby ordered not to forward a copy of the petition to the appropriate state agency until further order of the Court.

ENTERED this 29th day of June, 2005.



DOYLE W. ARGO
UNITED STATES MAGISTRATE JUDGE